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BY ECF

Hon. Analisa Torres
United States District Judge
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: *Benjamin Case, et al. v. City of New York, et al.*, 14 Civ. 09148 (AT)(RLE)

Your Honor:

I represent the Plaintiffs in this matter. I write to respond to Defendants' February 18, 2016 letter (Dkt. No. 64) seeking to strike Plaintiffs' Memorandum of Law in Opposition to Defendants' Second Motion to Dismiss (Dkt. No. 62) ("Plaintiffs' MOL") and an extension of time within which to reply to Plaintiffs' opposition to Defendants' motion papers.

Plaintiffs do not oppose Defendants' application for a reasonable, and even generous, extension of time within which to reply, although the September deadline requested is simply too far out. Plaintiffs do, however, object to Defendants' accusatory and uncivil statements and implications, including the irrelevant references to the *Carvalho* case, included in their application. Simply put, what happened in *Carvalho* has nothing to do with this case, and certainly has nothing to do with the reasonableness of the length of Plaintiffs' MOL. The length of the *Carvalho* papers was reasonable given the number of parties and depositions in the case, the issues in play at summary judgment, and the length of Defendants' papers, including their 56.1. I could detail for the Court the grounds and reasons for each of the extensions sought in *Carvalho* – by both parties - or remind the Court for the reasons offered by the parties for the consent extensions sought in this case, all of which were granted, and I will do so if the Court would find that helpful. As I cannot imagine how it would be, at this time I will only say that there was good cause to seek the extensions both in *Carvalho* and in this case, and there was good cause for the length of the filings in *Carvalho* and in this case. It is unfortunate that Defendants felt the need to link their application for additional time to taking potshots against me in a public filing, requiring this response to clarify the record.

Plaintiffs oppose Defendants' application to strike or limit Plaintiffs' MOL. Defendants misrepresent the length of Plaintiffs' brief in saying that it includes "nearly sixty pages of argument." Of the 70 total pages filed, the cover page, signature page, Table of Contents, and Table of Authorities take up 11 pages, there are around 21 pages of facts, and what remains is

around 38 pages of argument. The Court does not impose page limitations and requires the inclusion of relevant facts in such papers rather than their incorporation by reference to other documents. Over 21 pages of the brief are facts taken from the FAC, in compliance with that requirement. Defendants have seen almost all of the cases cited and the arguments made in the 38 pages of arguments in Plaintiffs' MOL before, including most recently in memoranda of law I have recently filed in opposition to Defendants' motions to dismiss made in other OWS cases, including *Yotam Marom, et al. v. City of New York*, 15-cv-2017 (PKC)(SN) (Dkt. No. 32, filed September 16, 2015) (motion to dismiss fully briefed), *Jason Marlin v. City of New York*, 15-cv-2235 (CM) (Dkt. No. 42, filed January 12, 2016), and *Alexander Arbuckle v. City of New York*, 13-cv-10248 (ER) (Dkt. No. 30, filed January 19, 2016), Defendants have replied in both *Marom* and *Marlin*, and Defendants' reply papers in *Arbuckle* are due shortly.

For the foregoing reasons, Plaintiffs do not oppose Defendants' application for a reasonable, and even generous, time within which to reply to Plaintiffs' opposition to Defendants' motion to dismiss, and request that the Court deny Defendants' application to strike or limit Plaintiffs' MOL.

Thank you for your attention to this matter.

Respectfully submitted,

/S/

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cc: Opposing counsel (by email)